

June 25, 2009

Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: Wind Energy Siting Reform Act (opposed)

Dear Mr. Clarke:

I write to inform you that I am deeply offended by the Patrick Administration's continuing attack on citizens' meaningful participation in the decision making process on matters that most affect us. As example, Governor Patrick changed the oldest law of its kind in the nation, Chapter 91 Waterways and Public Protection Act, during the middle of the Cape Wind review process. And, this action was taken to facilitate a private developer who would have otherwise required a variance for Cape Wind. This action silenced citizens who had participated over 147 days in a process that determined that Cape Wind would be reviewed under Chapter 91 as a "non-water dependent" project requiring full environmental scrutiny.

I have witnessed the unprecedented political maneuvering that ignores and changes, as example M.G.L. Chapter 91, intended to protect citizens and the environment, by t his administration-and it must stop now.

The regional planner as the Cape Cod Commission has denied the Cape Wind project as a Development of Regional Impact in the interest of citizens' and the environment. And, the silencing of the Cape Cod Commission by the political arm of the Patrick Administration required the EFSB to ignore applicable laws by the deplorable directive of this administration.

As you are aware, Cape Wind Associates has successfully petitioned the Energy Facilities Siting Board for a Certificate of Environmental Impact and Public Interest, pursuant to M.G.L. c. 164, § 69K, with respect to jurisdictional facilities approved by the Siting Board in EFSB 02-2. EFSB07-8.

Even while Massachusetts Energy Facilities Siting Board is charged with ensuring a reliable energy supply for the Commonwealth, with a minimum impact on the environment at the lowest possible cost, M.G.L. c. 164, §69H.

Even while Cape Wind has no source for their wind turbines that are discontinued by GE as the 3.6 MW spec'd by Cape Wind, (reliable?).

Even while the U.S. EPA response (CEQ #20090006) to the MMS Cape Wind MMS Final Environmental Impact Statement of 2/17/09 to MMS James Bennett states:

"Alternatives"

"We also noted that discussion about economic viability of the smaller scale project are complex given statements in the DEIS that the proposed project and other sites are not economically viable."

"In addition, the information contained in the Economic Model in Appendix F remains unchanged."

Appendix F:

"Given the estimated COST OF ENERGY IS \$122/MWh, TWICE THAT OF THE CURRENT MARKET AND THIS IS AFTER THE FULL BENEFIT OF TAX AND RPS INCENTIVES, the prospects of entering a long-term purchase power contract would seem low."

Source: [http://www.mms.gov/offshore/AlternativeEnergy/PDFs/FEIS/Appendix%20F%20-%20Economic Model.pdf](http://www.mms.gov/offshore/AlternativeEnergy/PDFs/FEIS/Appendix%20F%20-%20Economic%20Model.pdf)

The Patrick Administration, and by extension the Energy Facilities Siting Board, consider that you know better than the public what is good for the public to the extent that our participation in government decision making is in your viewpoint is unwelcome.

The Wind Energy Siting Reform Act is the newest attack on Massachusetts citizens' rights launched by this administration. I am opposed to this current attempt to silence citizens.

I ask that the Patrick Administration take note of the facts that illustrate the lacking due diligence, to the detriment of citizens, this administration exhibits.

I offer these facts to reveal to you exactly what you're attempting to fast track by way of introduction of the Wind Energy Siting Reform Act. And I offer that the reformation needed as indicated by the following facts, news, and events, is indeed reformation of the goals, policies, and deeds of the Patrick Administration.

This land is our land.

Sincerely,

Barbara Durkin  
48 Moore Lane  
Northboro, MA 01532  
Telephone: (508) 612-4133

On the matter of lacking due diligence on the part of the Patrick Administration and Executive Office of Energy and Environmental Affairs:

May 12, 2009: Governor Patrick and First Wind Paul Gaynor were interviewed by Alison King of NECN Radio, along with Steven Lockard CEO TPI Composites, U.S. Energy Secretary Steven Chu, and Ian Bowles Environment and Energy Secretary. Alison King introduced **Paul Gaynor as "CEO of First Wind, the largest wind energy producer in New England"**.

<http://www.necn.com/Boston/Business/2009/05/12/Wind-turbines-to-be-tested-in/1242160830.html>

Curt Nickish interviewed First Wind CEO Paul Gaynor on May 28, 2009 eyeing federal stimulus money:

<http://multimedia.boston.com/m/22383364/mass-green-energy-companies-eye-other-states-stimulus.htm>

6/24/09, CNET20news reports:  
'Massachusetts goes green to relive tech glory'

By Martin LaMonica

"During an opening ceremony for a [proposed Boston Power auto battery plant](http://news.cnet.com/8301-11128_3-10265420-54.html) last month in Auburn, Mass. not far from where shuttered Digital Equipment offices once were, Patrick crowed about receiving [\\$25 million](#) in U.S. Department of Energy grants for a wind blade testing center in Boston. Yet he seemed to understand that the clean-energy industry, much like the [Cape Wind](#) offshore wind project he supports, is a work in progress."  
[http://news.cnet.com/8301-11128\\_3-10265420-54.html](http://news.cnet.com/8301-11128_3-10265420-54.html)

Representative of the wind industry, UPCFirst Wind Paul Gaynor, with whom Governor Patrick, and Secretary Ian Bowles, are sharing the spotlight, is also under a spotlight where he has conducted business activities. There is significant evidence that Cape Wind is a partnership under UPC first wind. And Cape Wind is named in this complaint filed with the Department of Justice, along with UPC.

"Complaint Filed With the Department Of Justice Under the Sherman Antitrust Act By Concerned Citizen From The States of New York, Vermont, Maryland, and California (filed April 25, 2007)"

"Nature of Complaint"

"This is an Antitrust Complaint alleging that an International Cartel is engaged in Market Allocation, Price Fixing and Bid Rigging in 20 Windfarm Developments in New York and Vermont, as well as other states across the nation. This Complaint was submitted by 94 concerned citizens via email to the U.S. Department of Justice, Anti-Trust Division on April 25, 2007."

"UPC Wind Management LLC: "an American subsidiary of UPC Group", formerly known as Wind Management LLC, founded by Brian Caffyn for U.S. developments."

BJD editor's note, Cape Wind is identified in this Antitrust complaint signed by 94 non-NIMBYS.

<http://batr.net/cohoctonwindwatch/Windfarms-antitrust%20complaint-FINAL.doc>

As reported on July 16, 2008 by Wall Street Journal:

"New York Attorney General Andrew Cuomo has opened a probe of two companies that develop and operate wind farms over allegations of improper dealings with public officials and anticompetitive behavior.

Mr. Cuomo said his office has subpoenaed First Wind -- formerly UPC Wind -- and Noble Environmental Power LLC, which has filed with the Securities and Exchange ..."  
<http://online.wsj.com/article/SB121617758961057329.html>

New York AG identified First Wind SEC Filing states:

"On July 15, 2008, we were served with a civil subpoena by the New York State Attorney

General relating to an investigation into our activities in the State of New York. The subpoena we received contains broad requests for documents and information relating to: (i) whether we improperly sought or obtained land-use agreements with citizens and public officials, (ii) whether improper benefits were given to public officials to influence their actions and (iii) whether we and our competitors entered into anti-competitive agreements or practices. "

<http://www.windaction.org/news/17290>

The Press Republican on July 15, 2008 reports

"We've had a number of complaints from counties all over the state, from Franklin all the way over to Erie," said John Milgrim, spokesman for Attorney General Andrew Cuomo. Franklin County District Attorney Derek Champagne was among "DAs from eight counties, public officials and citizens" who bombarded Albany with complaints about Noble and Massachusetts-based First Wind, formerly known as UPC=2 0Wind, he said."

[http://www.pressrepublican.com/0100\\_news/local\\_story\\_197230037.html](http://www.pressrepublican.com/0100_news/local_story_197230037.html)

The Evening Tribune  
May 19, 2009  
Atlanta, NY.

'Cracked blades lead to likely showdown between town, First Wind'

"With construction ramping up again unexpectedly in Cohocton, town officials are looking at their legal options in keeping the work by developer First Wind in line with agreements signed between the parties — even if it means a court date.

Town Supervisor Jack Zigenfus announced at Monday night's town board meeting major work is being performed on the 50-turbine wind-powered electricity generation project on Pine, Lent and Dutch hills. The turbines, he said, need to be overhauled, leading to traffic, road damage and late nights of work — which may be in violation of the agreements between the town and First Wind.

"It's my belief every blade has to come off," he said. "It requires another round of construction and heavy traffic."

Some of the problems come from cracking or the potential of cracking on the turbines where the blades attach to the nacelles in the center — the same basic problem that required the dismantling of the Steel Winds project in Lackawanna, which was a First Wind project using the same Clipper turbines used in Cohocton..."

<http://www.eveningtribune.com/news/x340408144/Cracked-blades-lead-to-likely-showdown-between-town-First-Wind>

SNL Financial on January 9, 2008 reported:  
'Power-Operations and Strategy  
Clipper's 2.5 MW Liberty wind turbines malfunction'

[BJD editor's note, Michael Alvarez is the President of First Wind]

"The largest wind turbine manufactured in the United States is running into some technical difficulty."

The largest wind turbine manufactured in the United States is running into some technical difficulty..."

[Clipper Windpower Inc.](#)'s 2.5-MW Liberty wind turbines at the 20-MW [Steel Winds](#) facility in Lackawanna, N.Y., are malfunctioning due to faulty gear sets.

"At first, we were receiving great performance from the turbines," said Michael Alvarez, executive vice president and COO of [UPC Wind Partners LLC](#), which co-owns the facility with [BQ Energy LLC](#). "Over the summer, a gear-timing issue in the drive train's secondary stage was detected in some of Clipper Windpower's Liberty wind turbines at the Steel Winds site. The cause was found to be a supplier quality deficiency in the drive train attributable to the suppliers' manufacturing process. As part of Clipper's warranty, upgraded drive trains will be installed into all eight turbines at the Steel Winds site. Currently, two turbines are in operation."

The Union Leader on April 6, 2009 reported:

"According to a March 26, 2008 report by the Daily News in Bangor, Maine, UPC Wind president and CEO Paul Gaynor said the company would do a better job in the future about letting local residents know what to expect from wind farms.

"I know there was an expectation (in Mars Hill) about what these were going to sound like," Gaynor told the Daily News. "These are big structures and they do make sound."

Shortly after Gaynor spoke to the Maine newspaper, the firm changed its name to First Wind. It was formerly known as Global Winds Harvest/UPC."

<http://www.the-leader.com/homepage/x1931060317>

April 1, 2009 by Jack Zigenfus  
Summary:

"Cohocton, NY permit ted First Wind (formerly UPC Wind) to construct two wind energy facilities in the town on private land. Noise complaints started almost immediately after the turbines became operational. Windaction.org has been notified that the below letter was sent by Cohocton's town supervisor to First Wind."

<http://www.windaction.org/documents/20702>

Confidentiality and nondisclosure limit the information to the public concerning the Clipper 2.5 MW Liberty C 96 Turbines used in Cohocton/Dutch Hill project.

<http://documents.dps.state.ny.us/public/Common/ViewDoc.aspx?Doc RefId={33FA561C- ACE8-4F21- BEB3-D6DBF37F489 2}>

Cape Wind partners list UPC co-founded by Brian Caffyn and Paul Gaynor:

Friday, April 15, 2005

'UPC finds green energy initiatives face headwind'

Boston Business Journal - by [Alexander Soule](#) Journal Staff

"As James Gordon creeps closer to fulfilling his vision of a windmill power farm off Cape Cod, his erstwhile partner, Brian Caffyn, still faces headwinds in his efforts to plant turbines on Hardscrabble Mountain in Vermont and other peaks and plains across the country."

<http://www.bizjournals.com/boston/stories/2005/04/18/story8.html>

New York Times

Offshore Harvest of Wind Is Proposed for Cape Cod

By KAREN LEE ZINER

Published: April 16, 2002

"Cape Wind Associates, a joint venture between Energy Management Inc. and Wind Management Inc. (a subsidiary of UPC, a European-based wind-energy company) of Boston"

<http://www.nytimes.com/2002/04/16/science/offshore-harvest-of-wind-is-proposed-for-cape-cod.html>

"The project will be headed by Cape Wind Associates, which is a partnership between Energy Management Inc. and Wind Management, LLC (Cape 1) Energy Management Inc. is a company that in 1975 began developing energy conservation and pollution control projects for institutional and industrial facilities. It successfully developed six natural gas powered electric generation projects before selling them in 1999 to focus on developing wind power projects, specifically the Cape Wind project. On the other hand, Wind Management, LLC. was formed in 2000 by two former UPC directors. UPC is one of Europe's most=2 0prestigious wind project developers. Over the past five years UPC has designed, financed, built, and operated some of the world's largest wind energy projects. In addition, Environmental Science Services of Massachusetts will be the environmental specialist for the project."

<http://www.physics.rutgers.edu/~kotliar/honors/honsemproj/somalwar/ENERGY-%20CapeWind.doc>

[www.upceuropewind.com/?q=news122005](http://www.upceuropewind.com/?q=news122005) - [C ached Version]

Published on: 12/6/2005 Last Visited: 3/31/2007

UPC Wind group of companies (UPC), led by Brian Caffyn, is leveraging its Italian and North American successes with the creation of a new company, UPC Europe Wind.

UPC's leadership team of Brian Caffyn and Peter Gish have been immensely successful pioneers in the wind industry having built nearly 700 MW of Wind Power generation in Italy and raising more that \$1 billion for these projects' financing.

"These are exciting times in the energy market and in wind power generation in particular" stated Brian Caffyn, UPC Chairman. Caffyn further stated that "UPC Europe Wind is a logical progression of our North American venture and Italian experience to further capitalize on expanding European opportunities."

UPC's North American and European operations will be operated with a coordinated strategy, utilising the winning formula that UPC is noted for.

Who is Paul Gaynor? WPI article 2005:

"As president and CEO of UPC Wind Management, located in Newton, Mass., Gaynor was tapped to bring the success of the parent company, UPC Group, to North America. In Europe and North Africa, UPC affiliates—including Italian Vento Power Corporation—have raised over \$900 million in financing and installed some 900 utility-scale wind turbine generators (WTGs), with a total capacity of more than 635 megawatts. UPC subsidiary companies, positioned across the United States and in Toronto, are currently pursuing some 2,000 megawatts in projects from Maine to Maui."

Back on the East Coast, UPC's major focus includes more than a half dozen active developments in New England and New York. UPC has added a West Coast presence, in San Diego."

"While New Englanders debate the aesthetic impact of a proposed offshore project on Nantucket Sound, Gaynor—who owns a home on Nantucket—points out the aging power plants that dot the New England coastline. "People are so used to looking at those old power plants that they don't even think about them," he says. "Would you rather see more of those dirty coal and oil plants spewing smoke, or would you rather look at wind turbines, which produce clean power?" Noting the emissions from Cape Cod's Canal Power Station, Gaynor suggests, "Next time you drive over the Sagamore Bridge, take a look to the east. I'd rather look at an offshore wind farm than look at that power plant for the next 20 years."

<http://www.wpi.edu/News/Transformations/2005Summer/windpower.html>

UPC in Italy:

"UPC personnel had extensive experience in the U.S. with wind energy development, ownership and operation. Avv. Oreste Vigorito has been the Managing Director of IVPC and its subsidiary companies from inception and has become a partner with UPC in its Italian activities. Avv. Vigorito has continually provided the IVPC companies with strong Italian and local management experience."

<http://home.btconnect.com/tipiglen/foreigners.html>

Report: Mafia Invests in Sicilian Wind Farms

Tuesday, May 05, 2009

The Mafia may be going green.

Sicilian prosecutors are cracking down on Cosa Nostra involvement in the numerous small firms that build wind farms on the Mediterranean island, the [Financial](#) Times reports.

What's the attraction for organized crime? The best of intentions, of course. The European Union and the Italian government heavily subsidize the construction of alternative-energy facilities, and the operators are guaranteed high rates to maximize their profits.

A few wind farms that broke down because of lousy construction still received subsidies, prosecutor Roberto Scarpinato told the Financial Times.

"This is the amazing thing -- that [developers](#) got public money to build wind farms that did not produce electricity," he said.

Furthermore, locally-built wind farms are often bought up by multinational energy firms from other parts of Europe, none of which know the true identities of the original owners.

"A handful of people control the wind sector," said Scarpinato. "Many companies exist, but it is the same people behind them." Eight arrests have already been made."

<http://www.foxnews.com/story/0,2933,519000,00.html>

Boston Globe  
December 11, 2007

## 'Changes may buoy Cape Wind project'

### 'Patrick seeks to alter state law'

"Governor Deval Patrick's administration proposed several changes to state environmental-protection laws yesterday that could help speed construction of offshore wind-power farms, including the controversy-plagued Cape Wind project that Patrick strongly backs."

[http://www.boston.com/news/local/articles/2007/12/11/changes\\_may\\_buoy\\_cape\\_wind\\_project/](http://www.boston.com/news/local/articles/2007/12/11/changes_may_buoy_cape_wind_project/)

My op-ed on this action against citizen and environmental protection, changes to MGL Chapter 91:

[http://lawprofessors.typepad.com/environmental\\_law/2009/01/cape-wind-contr.html](http://lawprofessors.typepad.com/environmental_law/2009/01/cape-wind-contr.html)

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